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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,444	02/27/2004	David Shaver	48550/P003US/10309896	5009

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EXAMINER	
NGUYEN, SON T	
ART UNIT	**PAPER NUMBER**
3643	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,444	SHAVER ET AL.	
	Examiner	Art Unit	
	Son T. Nguyen	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1,3,4,6-9** are rejected under 35 U.S.C. 102(b) as being anticipated by The Hop Picking Year article (herein Hop) dated summer 1961 from http://www.bygonebodiam.co.uk/Hop%20Training.htm.

For claims 1 & 9, Hop teaches a method for growing a plant comprising planting the plant in a growth medium (can be seen from the pictures); twisting at least two plant vines of the plant together to form a growing unit (see pictures, especially "Mrs Baldock-Apps Thirding" two vines in the middle are twisted on the string, each hop plant includes a plurality of vines and two vines are to be support by a string, see article); and maintaining the growing unit during the growth and production cycles of the plant.

For claim 3, Hop teaches twisting the vines together around a string (see pictures, especially "Mrs Baldock-Apps Thirding" two vines in the middle are twisted on the string, each hop plant includes a plurality of vines and two vines are to be support by a string, see article).

For claim 4, Hop teaches a yield system comprising a growth medium, a plant having vines growing from a single root system (a hop with multiple shoots that grow into multiple vines); and supports (the strings). See pictures and article description.

For claims 6 & 7, Hop teaches a method for growing a plant comprising twisting vines of the plant around a flexible material (the string), and securing the flexible material, wherein the vines are twisted vertically around the flexible material. See claim 1, pictures and article description.

For claim 8, Hop teaches in "Mrs Baldock-Apps Thirding" picture a rod (the middle stick) which the vines twist around.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 2,5,10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hop (as above) in view of Gaudru (FR2797559A1).

For claim 2, Hop is silent about securing one end of the flexible material at the base of the plant. Gaudru teaches a method for growing a plant comprising securing one end (at ref. 12) of a flexible material 4 at the base of the plant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the step of securing one end of a flexible material at the base of the plant as taught by Gaudru in the method of Hop as an alternative way to anchor the flexible material. Note, Hop teaches the flexible material being anchored somewhere in the base area of the plant already.

Since Hop already teaches the twisting step by twisting the vines around the flexible material but not vice-versa, it would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the step of twisting the vines around the flexible material as taught by Hop with twisting the flexible material around the plant, since it is has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

For claim 5, Hop teaches a flexible material having one end supported above the vines (see "Heading" picture), but Hop is silent about the other end of the flexible material tied around the base of the plant. Gaudru teaches a system for growing a plant comprising securing one end (at ref. 12) of a flexible material 4 at the base of the plant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to tie one end of a flexible material at the base of the plant as taught by Gaudru in the system of Hop as an alternative way to anchor the flexible material. Note, Hop teaches the flexible material being anchored somewhere in the base area of the plant already.

For claim 10, Hop teaches securing the opposite end of the flexible material at a height taller than the plant (see "Heading" picture), but Hop is silent about securing one end of the flexible material at the base of the plant. Gaudru teaches a method for growing a plant comprising securing one end (at ref. 12) of a flexible material 4 at the base of the plant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the step of securing one end of a flexible material at the base of the plant as taught by Gaudru in the method of Hop as an

alternative way to anchor the flexible material. Note, Hop teaches the flexible material being anchored somewhere in the base area of the plant already.

Response to Arguments

5. Applicant's arguments filed 10/14/05 have been fully considered but they are not persuasive.

Applicant argued that The Hop Picking Year article is not prior art under 102(b) because the Internet date was posted after Applicant's filing date.

Although the Hop Picking article is dated 5/9/04 (WaybackMachine), it is still a 102(b) publication because the article discussed about the Guinness Time, which is a newspaper dating back to 1958. The Guinness Time is a publicly posted publication in 1958, therefore, it is prior art under 102(b). The Hop Picking article merely summarizes what has already been published in the Guinness Time newspaper in 1958, thus, priority date should date back to 1958. The date (1958) of the newspaper when first printed is the date of filing and was publicly posted, which definitely is before the filling date of Applicant's invention.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son T. Nguyen
Primary Examiner
Art Unit 3643

stn